2020

CUMULATIVE SUPPLEMENT

TO

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1972 ANNOTATED

Issued December 2020

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ENACTED THROUGH THE 2020 REGULAR SESSION

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Volume 10

Titles 35 to 37 (Chapters 1 to 35)

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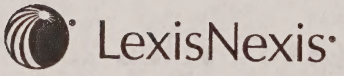

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

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PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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December 2020 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 35. War Veterans and Pensions

CHAPTER Military Veterans; Miscellaneous Provisions

SEC.
35-3-31. Mississippi Veterans Honor Medal Program created.

TITLE 37. Education

CHAPTER School Districts; Boards of Trustees of School Districts

ARTICLE BOARDS OF TRUSTEES; GENERAL POWERS AND DUTIES.

37-7-315.1. Consolidation of system of high schools in Tate County; closure of Coldwater High School [For contingent effective date, see Editor's Note].

MISSISSIPPI CODE
1972
ANNOTATED

VOLUME TEN

TITLE 35.
WAR VETERANS AND PENSIONS

Chapter 3. Military Veterans; Miscellaneous Provisions. ... 35-3-1

CHAPTER 3.
MILITARY VETERANS; MISCELLANEOUS PROVISIONS

Sec.

35-3-13. Recordation without cost of honorable discharges and service certificates; recordation without cost of Form DD-214 and Form NGB-22.
35-3-31. Mississippi Veterans Honor Medal Program created.

§ 35-3-13. Recordation without cost of honorable discharges and service certificates; recordation without cost of Form DD-214 and Form NGB-22.

(1) All chancery clerks, of all counties of the State of Mississippi, shall record, without any cost whatsoever to any person of the Armed Forces of the United States residing in the same county as the chancery clerk, all honorable discharges and all certificates of service of any and all members of the Armed Forces of the United States of America who have served in the Armed Forces of the United States, including the army, navy and marine, coast guard and nurses corps.

(2) The board of supervisors of all counties shall furnish to the chancery clerk all necessary supplies and equipment for the recording of these instruments, and allow out of the general fund of the county the sum of One Dollar ($1.00) for recording the discharge certificate. All certified copies will be furnished free without cost either to the soldier, sailor, marine, coast guardsman, nurse or the county.

(3) The chancery clerk of all counties shall keep a record of all honorable discharges and certificates of discharge in a separate record safeguarded and protected from theft, and definitely marked "Record of Discharged Members of the Armed Forces." The chancery clerk shall furnish certified copies of the discharge or discharge certificate of any veteran when so requested by the veteran, his dependents or his authorized representative; however, before furnishing any copy of the discharge or discharge certificate, the chancery clerk

must verify the identity and relationship to the veteran of the person requesting the copy and must obtain and maintain on file a signed consent for the release of information from the veteran, dependent or authorized representative.

(4)(a) The chancery clerk of all counties shall keep a record of all veterans Form DD-214 in a separate record safeguarded and protected from theft, and marked "Record of Veterans Service Form DD-214 Members of the Armed Forces." The chancery clerk shall record the form without charge and shall furnish certified copies of the Form DD-214 without charge when so requested by the veteran, his dependents or his authorized representative. The Form DD-214 record is not a public record under the public records law, and before furnishing any copy of the form, the chancery clerk shall verify the identity and relationship to the veteran of the person requesting the copy and obtain and maintain in the file a signed consent for the release of information from the veteran, dependent or authorized representative. The chancery clerk shall prepare and provide a form for use by the veteran, dependent or authorized representative to provide such consent for the release of information from the veteran, dependent or authorized representative.

(b) The chancery clerk of all counties shall keep a record of all veterans Form NGB-22 in a separate record safeguarded and protected from theft, and marked "Record of Veterans Service Form NGB-22 Members of the Armed Forces." The chancery clerk shall record the form without charge and shall furnish certified copies of the Form NGB-22 without charge when so requested by the veteran, his dependents or his authorized representative. The Form NGB-22 record is not a public record under the public records law, and before furnishing any copy of the form, the chancery clerk shall verify the identity and relationship to the veteran of the person requesting the copy and obtain and maintain in the file a signed consent for the release of information from the veteran, dependent or authorized representative. The chancery clerk shall prepare and provide a form for use by the veteran, dependent or authorized representative to provide such consent for the release of information from the veteran, dependent or authorized representative.

HISTORY: Codes, 1942, § 7516; Laws, 1942, ch. 191; Laws, 1944, ch. 164, § 1; Laws, 1994, ch. 521, § 38; Laws, 2002, ch. 609, § 2, eff from and after July 1, 2002; Laws, 2020, ch. 407, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment designated the formerly undesignated first three paragraphs (1) through (3); and added (4).

§ 35-3-31. Mississippi Veterans Honor Medal Program created.

(1) There is hereby created a Mississippi Veterans Honor Medal Program to be administered by the State Veterans Affairs Board to honor, recognize and thank Mississippi veterans for their honorable military service. The Mississippi Veterans Honor Medal shall be available for Mississippi veterans who

were honorably discharged. The State Veterans Affairs Board shall determine as expeditiously as possible the specific eligibility requirements for the medal. Applications for the medal shall be filed with the State Veterans Affairs Board on forms prescribed and furnished by the board. The program shall be revenue neutral with all costs to be paid by the sale of the medals at a price to be determined by the board. The State Veterans Affairs Board may adopt any rules and regulations necessary to administer the provisions of this section.

HISTORY: Laws, 2020, ch. 463, § 5, eff from and after July 1, 2020.

TITLE 37.

EDUCATION

Chapter 3.	State Department of Education.	37-3-1
Chapter 7.	School Districts; Boards of Trustees of School Districts.	37-7-1
Chapter 11.	General Provisions Pertaining to Education.	37-11-1
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CHAPTER 3.

STATE DEPARTMENT OF EDUCATION

Sec.
37-3-2. Certification of teachers and administrators.

§ 37-3-2. Certification of teachers and administrators.

(1) There is established within the State Department of Education the Commission on Teacher and Administrator Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2)(a) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be composed of the following members to be appointed, three (3) from each of the four (4) congressional districts, as such districts existed on January 1, 2011, in accordance with the population calculations determined by the 2010 federal decennial census, including: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of public institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from public community and junior colleges located within the state to be recommended by the Mississippi Community College Board; one (1) local school board member; and four (4) laypersons. Three (3) members of the commission, at the sole discretion of the State Board of Education, shall be appointed from the state at large.

(b) All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members

shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments shall designate a chairman. The commission shall meet at least once every two (2) months or more often if needed. Members of the commission shall be compensated at a rate of per diem as authorized by Section 25-3-69 and be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(4)(a) An appropriate staff member of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve as executive secretary and coordinator for the commission. No less than two (2) other appropriate staff members of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve on the staff of the commission.

(b) An Office of Educator Misconduct Evaluations shall be established within the State Department of Education to assist the commission in responding to infractions and violations, and in conducting hearings and enforcing the provisions of subsections (11), (12), (13), (14) and (15) of this section, and violations of the Mississippi Educator Code of Ethics.

(5) It shall be the duty of the commission to:

(a) Set standards and criteria, subject to the approval of the State Board of Education, for all educator preparation programs in the state;

(b) Recommend to the State Board of Education each year approval or disapproval of each educator preparation program in the state, subject to a process and schedule determined by the State Board of Education;

(c) Establish, subject to the approval of the State Board of Education, standards for initial teacher certification and licensure in all fields;

(d) Establish, subject to the approval of the State Board of Education, standards for the renewal of teacher licenses in all fields;

(e) Review and evaluate objective measures of teacher performance, such as test scores, which may form part of the licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification and licensure;

(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas; and

(*l*) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

(6)(a) **Standard License — Approved Program Route.** An educator entering the school system of Mississippi for the first time and meeting all

requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements. Applicants for a standard license shall submit to the department:

(i) An application on a department form;

(ii) An official transcript of completion of a teacher education program approved by the department or a nationally accredited program, subject to the following: Licensure to teach in Mississippi prekindergarten through kindergarten classrooms shall require completion of a teacher education program or a Bachelor of Science degree with child development emphasis from a program accredited by the American Association of Family and Consumer Sciences (AAFCS) or by the National Association for Education of Young Children (NAEYC) or by the National Council for Accreditation of Teacher Education (NCATE). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary program of studies with two (2) or more areas of concentration. Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All applicants for standard licensure shall demonstrate that such person's college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a Bachelor of Science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS). Effective July 1, 2016, for initial elementary education licensure, a teacher candidate must earn a passing score on a rigorous test of scientifically research-based reading instruction and intervention and data-based decision-making principles as approved by the State Board of Education;

(iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service's teacher testing examinations;

(iv) Any other document required by the State Board of Education; and

(v) From and after July 1, 2020, no teacher candidate shall be

licensed to teach in Mississippi who did not meet the following criteria for entrance into an approved teacher education program:

1. An ACT Score of twenty-one (21) (or SAT equivalent); or

2. Achieve a qualifying passing score on the Praxis Core Academic Skills for Educators examination as established by the State Board of Education; or

3. A minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program.

(b) **Standard License — Nontraditional Teaching Route.** From and after July 1, 2020, no teacher candidate shall be licensed to teach in Mississippi under the alternate route who did not meet the following criteria:

(i) An ACT Score of twenty-one (21) (or SAT equivalent); or

(ii) Achieve a qualifying passing score on the Praxis Core Academic Skills for Educators examination as established by the State Board of Education; or

(iii) A minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program.

Beginning July 1, 2020, an individual who has attained a passing score on the Praxis Core Academic Skills for Educators or an ACT Score of twenty-one (21) (or SAT equivalent) or a minimum GPA of 3.0 on coursework prior to admission to an approved teacher education program and a passing score on the Praxis Subject Assessment in the requested area of endorsement may apply for admission to the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b). The State Board of Education shall adopt rules requiring that teacher preparation institutions which provide the Teach Mississippi Institute (TMI) program for the preparation of nontraditional teachers shall meet the standards and comply with the provisions of this paragraph.

(i) The Teach Mississippi Institute (TMI) shall include an intensive eight-week, nine-semester-hour summer program or a curriculum of study in which the student matriculates in the fall or spring semester, which shall include, but not be limited to, instruction in education, effective teaching strategies, classroom management, state curriculum requirements, planning and instruction, instructional methods and pedagogy, using test results to improve instruction, and a one (1) semester three-hour supervised internship to be completed while the teacher is employed as a full-time teacher intern in a local school district. The TMI shall be implemented on a pilot program basis, with courses to be offered at up to four (4) locations in the state, with one (1) TMI site to be located in each of the three (3) Mississippi Supreme Court districts.

(ii) The school sponsoring the teacher intern shall enter into a written agreement with the institution providing the Teach Mississippi Institute (TMI) program, under terms and conditions as agreed upon by the contracting parties, providing that the school district shall provide teacher

interns seeking a nontraditional provisional teaching license with a one-year classroom teaching experience. The teacher intern shall successfully complete the one (1) semester three-hour intensive internship in the school district during the semester immediately following successful completion of the TMI and prior to the end of the one-year classroom teaching experience.

(iii) Upon completion of the nine-semester-hour TMI or the fall or spring semester option, the individual shall submit his transcript to the commission for provisional licensure of the intern teacher, and the intern teacher shall be issued a provisional teaching license by the commission, which will allow the individual to legally serve as a teacher while the person completes a nontraditional teacher preparation internship program.

(iv) During the semester of internship in the school district, the teacher preparation institution shall monitor the performance of the intern teacher. The school district that employs the provisional teacher shall supervise the provisional teacher during the teacher's intern year of employment under a nontraditional provisional license, and shall, in consultation with the teacher intern's mentor at the school district of employment, submit to the commission a comprehensive evaluation of the teacher's performance sixty (60) days prior to the expiration of the nontraditional provisional license. If the comprehensive evaluation establishes that the provisional teacher intern's performance fails to meet the standards of the approved nontraditional teacher preparation internship program, the individual shall not be approved for a standard license.

(v) An individual issued a provisional teaching license under this nontraditional route shall successfully complete, at a minimum, a one-year beginning teacher mentoring and induction program administered by the employing school district with the assistance of the State Department of Education.

(vi) Upon successful completion of the TMI and the internship provisional license period, applicants for a Standard License - Nontraditional Route shall submit to the commission a transcript of successful completion of the twelve (12) semester hours required in the internship program, and the employing school district shall submit to the commission a recommendation for standard licensure of the intern. If the school district recommends licensure, the applicant shall be issued a Standard License - Nontraditional Route which shall be valid for a five-year period and be renewable.

(vii) At the discretion of the teacher preparation institution, the individual shall be allowed to credit the twelve (12) semester hours earned in the nontraditional teacher internship program toward the graduate hours required for a Master of Arts in Teacher (MAT) Degree.

(viii) The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such

individual is completing teacher internship requirements and shall compensate such Standard License - Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

Implementation of the TMI program provided for under this paragraph (b) shall be contingent upon the availability of funds appropriated specifically for such purpose by the Legislature. Such implementation of the TMI program may not be deemed to prohibit the State Board of Education from developing and implementing additional alternative route teacher licensure programs, as deemed appropriate by the board. The emergency certification program in effect prior to July 1, 2002, shall remain in effect.

A Standard License - Approved Program Route shall be issued for a five-year period, and may be renewed. Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License - Approved Program Route or Standard License - Nontraditional Teaching Route over persons holding any other license.

(c) **Special License — Expert Citizen.** In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a one-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state. Such person may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. The board shall adopt rules and regulations to administer the expert citizen-teacher license. A Special License - Expert Citizen may be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License — Nonrenewable.** The State Board of Education is authorized to establish rules and regulations to allow those educators not meeting requirements in paragraph (a), (b) or (c) of this subsection (6) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school district or a nonpublic school accredited/approved by the state. Such person shall submit to the department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License — Transitional Bilingual Education.** Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the

regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission; and (v) are legally present in the United States and possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education.

(g) In the event any school district meets the highest accreditation standards as defined by the State Board of Education in the accountability system, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(h) **Highly Qualified Teachers.** Beginning July 1, 2006, any teacher from any state meeting the federal definition of highly qualified, as described in the No Child Left Behind Act, must be granted a standard five-year license by the State Department of Education.

(7) **Administrator License.** The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.

(a) **Administrator License — Nonpracticing.** Those educators holding administrative endorsement but having no administrative experience or not serving in an administrative position on January 15, 1997.

(b) **Administrator License — Entry Level.** Those educators holding administrative endorsement and having met the department's qualifications to be eligible for employment in a Mississippi school district. Administrator License - Entry Level shall be issued for a five-year period and shall be nonrenewable.

(c) **Standard Administrator License — Career Level.** An administrator who has met all the requirements of the department for standard administrator licensure.

(d) **Administrator License — Nontraditional Route.** The board may establish a nontraditional route for licensing administrative personnel.

Such nontraditional route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree, a master of public planning and policy degree or a doctor of jurisprudence degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for administrators shall qualify the person for a standard administrator license.

Individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. All applicants for school administrator licensure shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.

(8) **Reciprocity.**

(a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and meets minimum Mississippi license requirements or equivalent requirements as determined by the State Board of Education. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state. Such special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) **Renewal and Reinstatement of Licenses.** The State Board of Education is authorized to establish rules and regulations for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the educator's license to a higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee established by the commission and composed of commission members, or by a hearing officer retained and appointed by the commission, for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission on Teacher and Administrator Education, Certification and Li-

censure and Development. The decision thereon by the commission, its subcommittee or hearing officer, shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the commission, its subcommittee or hearing officer. An appeal to the State Board of Education shall be perfected upon filing a notice of the appeal and by the prepayment of the costs of the preparation of the record of proceedings by the commission, its subcommittee or hearing officer. An appeal shall be on the record previously made before the commission, its subcommittee or hearing officer, unless otherwise provided by rules and regulations adopted by the board. The decision of the commission, its subcommittee or hearing officer shall not be disturbed on appeal if supported by substantial evidence, was not arbitrary or capricious, within the authority of the commission, and did not violate some statutory or constitutional right. The State Board of Education in its authority may reverse, or remand with instructions, the decision of the commission, its subcommittee or hearing officer. The decision of the State Board of Education shall be final.

(11)(a) The State Board of Education, acting through the commission, may deny an application for any teacher or administrator license for one or more of the following:

(i) Lack of qualifications which are prescribed by law or regulations adopted by the State Board of Education;

(ii) The applicant has a physical, emotional or mental disability that renders the applicant unfit to perform the duties authorized by the license, as certified by a licensed psychologist or psychiatrist;

(iii) The applicant is actively addicted to or actively dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effect, at the time of application for a license;

(iv) Fraud or deceit committed by the applicant in securing or attempting to secure such certification and license;

(v) Failing or refusing to furnish reasonable evidence of identification;

(vi) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law. For purposes of this subparagraph (vi) of this paragraph (a), a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(vii) The applicant or licensee is on probation or post-release supervision for a felony or conviction, as defined by federal or state law. However, this disqualification expires upon the end of the probationary or post-release supervision period.

(b) The State Board of Education, acting through the commission, shall deny an application for any teacher or administrator license, or immediately revoke the current teacher or administrator license, for one or more of the following:

(i) If the applicant or licensee has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or

state law. For purposes of this subparagraph (i) of this paragraph (b), a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(ii) The applicant or licensee is on probation or post-release supervision for a sex offense conviction, as defined by federal or state law;

(iii) The license holder has fondled a student as described in Section 97-5-23, or had any type of sexual involvement with a student as described in Section 97-3-95; or

(iv) The license holder has failed to report sexual involvement of a school employee with a student as required by Section 97-5-24.

(12) The State Board of Education, acting through the commission, may revoke, suspend or refuse to renew any teacher or administrator license for specified periods of time or may place on probation, reprimand a licensee, or take other disciplinary action with regard to any license issued under this chapter for one or more of the following:

(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law. For purposes of this paragraph, a "guilty plea" includes a plea of guilty, entry of a plea of nolo contendere, or entry of an order granting pretrial or judicial diversion;

(e) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1);

(f) The license holder has engaged in unethical conduct relating to an educator/student relationship as identified by the State Board of Education in its rules;

(g) The license holder served as superintendent or principal in a school district during the time preceding and/or that resulted in the Governor declaring a state of emergency and the State Board of Education appointing a conservator;

(h) The license holder submitted a false certification to the State Department of Education that a statewide test was administered in strict accordance with the Requirements of the Mississippi Statewide Assessment System; or

(i) The license holder has failed to comply with the Procedures for Reporting Infractions as promulgated by the commission and approved by the State Board of Education pursuant to subsection (15) of this section.

For purposes of this subsection, probation shall be defined as a length of time determined by the commission, its subcommittee or hearing officer, and based on the severity of the offense in which the license holder shall meet certain requirements as prescribed by the commission, its subcommittee or hearing officer. Failure to complete the requirements in the time specified shall result in immediate suspension of the license for one (1) year.

(13)(a) Dismissal or suspension of a licensed employee by a local school board pursuant to Section 37-9-59 may result in the suspension or revocation of a license for a length of time which shall be determined by the commission and based upon the severity of the offense.

(b) Any offense committed or attempted in any other state shall result in the same penalty as if committed or attempted in this state.

(c) A person may voluntarily surrender a license. The surrender of such license may result in the commission recommending any of the above penalties without the necessity of a hearing. However, any such license which has voluntarily been surrendered by a licensed employee may only be reinstated by a majority vote of all members of the commission present at the meeting called for such purpose.

(14)(a) A person whose license has been suspended or surrendered on any grounds except criminal grounds may petition for reinstatement of the license after one (1) year from the date of suspension or surrender, or after one-half (1/2) of the suspended or surrendered time has lapsed, whichever is greater. A person whose license has been suspended or revoked on any grounds or violations under subsection (12) of this section may be reinstated automatically or approved for a reinstatement hearing, upon submission of a written request to the commission. A license suspended, revoked or surrendered on criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked, suspended or surrendered license may be reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.

(b) A person whose license expires while under investigation by the Office of Educator Misconduct for an alleged violation may not be reinstated without a hearing before the commission if required based on the results of the investigation.

(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or revocation. The commission shall immediately notify the superintendent of the school district or school board where the teacher or administrator is employed of any disciplinary action and also notify the teacher or administrator of such

revocation or suspension and shall maintain records of action taken. The State Board of Education may reverse or remand with instructions any decision of the commission, its subcommittee or hearing officer regarding a petition for reinstatement of a license, and any such decision of the State Board of Education shall be final.

(16) An appeal from the action of the State Board of Education in denying an application, revoking or suspending a license or otherwise disciplining any person under the provisions of this section shall be filed in the Chancery Court of the First Judicial District of Hinds County, Mississippi, on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be filed within thirty (30) days after notification of the action of the board is mailed or served and the proceedings in chancery court shall be conducted as other matters coming before the court. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of preparation of the record of the proceedings by the State Board of Education, and the filing of a bond in the sum of Two Hundred Dollars ($200.00) conditioned that if the action of the board be affirmed by the chancery court, the applicant or license holder shall pay the costs of the appeal and the action of the chancery court.

(17) All such programs, rules, regulations, standards and criteria recommended or authorized by the commission shall become effective upon approval by the State Board of Education as designated by appropriate orders entered upon the minutes thereof.

(18) The granting of a license shall not be deemed a property right nor a guarantee of employment in any public school district. A license is a privilege indicating minimal eligibility for teaching in the public school districts of Mississippi. This section shall in no way alter or abridge the authority of local school districts to require greater qualifications or standards of performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Laws, 1982, Ex Sess, ch. 17, § 10; Laws, 1988, ch. 464, § 1; Laws, 1988, ch. 536, § 1; Laws, 1989, ch. 373, § 1; Laws, 1991, ch. 502, § 1; Laws, 1991, ch. 534, § 1; Laws, 1992, ch. 519, § 2; Laws, 1992, ch. 524, § 2; Laws, 1993, ch. 594, § 1; Laws, 1994, ch. 596, § 1; Laws, 1994, ch. 581, § 16; Laws, 1996, ch. 507, § 9; Laws, 1996, ch. 540, § 1; Laws, 1997, ch. 545, § 1; Laws, 2000, ch. 432, § 1; Laws, 2000, ch. 550, § 1; Laws, 2002, ch. 587, § 1; Laws, 2004, ch. 409, § 1; Laws, 2004, ch. 478, § 1; Laws, 2006, ch. 504, § 3; reenacted without change, Laws, 2009, ch. 345, § 2; reenacted and amended, Laws, 2009, ch. 445, § 2; Laws, 2011, ch. 514, § 1; Laws, 2012, ch. 376, § 1; Laws, 2013, ch. 350, § 3; Laws, 2013, ch. 496, § 1; Laws, 2013, ch. 497, § 39; Laws, 2014, ch. 318, § 1; Laws, 2014, ch. 397, § 8; Laws, 2014, ch. 458, § 3; Laws, 2014, ch. 536, § 3; Laws, 2015, ch. 470, § 2, eff from and after passage (approved Apr. 22, 2015); Laws, 2019, ch. 455, § 1, eff from and after July 1, 2019; Laws, 2020, ch. 348, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (6)(a)(v), substituted "July 1, 2020" for "September 30, 2015" in the introductory paragraph, rewrote 1. and 2., which read: "1. Twenty-one (21) ACT equivalent or achieve the nationally recommended passing score on the Praxis Core Academic Skills for Educators examination; and 2. No less than 2.75 GPA on pre-major coursework of the institution's approved teacher education program provided that the accepted cohort of candidates meets or exceeds a 3.0 GPA on pre-major coursework," and added 3.; and in (6)(b), substituted "July 1, 2020" for "September 30, 2015" in the introductory paragraph, rewrote (i) and (ii), which read: "(i) Twenty-one (21) ACT equivalent or achieve the nationally recommended passing score on the Praxis Core Academic Skills for Educators examination; and (ii) No less than 2.75 GPA on content coursework in the requested area of certification or passing Praxis II scores at or above the national recommended score provided that the accepted cohort of candidates of the institution's teacher education program meets or exceeds a 3.0 GPA on pre-major coursework," and added (iii), and rewrote the first sentence of the second paragraph, which read: "Beginning January 1, 2004, an individual who has a passing score on the Praxis I Basic Skills and Praxis II Specialty Area Test in the requested area of endorsement may apply for the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b)."

CHAPTER 5.

COUNTY BOARDS OF EDUCATION AND SUPERINTENDENTS

COUNTY SUPERINTENDENTS OF EDUCATION

[§§ 37-5-61 through 37-5-65. Repealed.

Repealed by Laws of 2016, ch. 311, § 3, effective January 1, 2019. § 37-5-61. [Codes, 1942, §§ 6271-08, 6271-10, 6274-05; Laws, 1953, Ex Sess ch. 10, §§ 8, 10; ch. 16, § 5; Laws, 1954, ch. 275; Laws, 1958, ch. 297; Laws, 1960, ch. 308, § 3; Laws, 1962, chs. 344, 345, 346; Laws, 1966, ch. 406, § 1; ch. 407, § 1; Laws, 1968, ch. 384, § 1; ch. 398, § 1; ch. 399; Laws, 1970, ch. 372, § 1; Laws, 2013, ch. 497, § 49; Laws, 2017, ch. 301, § 3, eff from and after passage (approved Jan. 17, 2017).] § 37-5-63.]Codes; 1942, § 6271-08; Laws, 1953, Ex Sess ch. 10, § 8; Laws, 1962, chs. 344, 345, 346; Laws, 1966, ch. 406, § 1; Laws, 1968, ch. 384, § 1; ch. 398, § 1; Laws, 1970, ch. 372, § 1, eff from and after

passage (approved April 1, 1970).] § 37-5-65. [Codes, 1942, § 6271-08; Laws, 1953, Ex Sess ch. 10, § 8; Laws, 1962, chs. 344, 345, 346; Laws, 1966, ch. 406, § 1; Laws, 1968, ch. 384, § 1; ch. 398, § 1; Laws, 1970, ch. 372, § 1, eff from and after passage (approved April 1, 1970).]

Editor's Notes — Former § 37-5-61 created a county superintendent of education in each county and provided for the superintendent functions, election and term of office.

Former § 37-5-63 provided that the office of county superintendent of education could be made appointive.

Former § 37-5-65 provided the office of county superintendent of education that was made appointive under § 37-5-63 could be reestablished as elective and provided the procedure for doing so.

§ 37-5-67. Repealed.

Repealed by Laws of 2016, ch. 311, § 3, effective January 1, 2019. § 37-5-67. [Codes, 1942, § 6271-08; Laws, 1953, Ex Sess ch. 10, § 8; Laws, 1962, chs. 344, 345, 346; Laws, 1966, ch. 406, § 1; Laws, 1968, ch. 384, § 1; ch 398, § 1; Laws, 1970, ch. 372, § 1, eff from and after passage (approved April 1, 1970).]

Editor's Notes — Former § 37-5-67 authorized the appointment of county superintendent by county boards of education in certain counties.

§§ 37-5-69 and 37-5-71. Repealed.

Repealed by Laws of 2016, ch. 311, § 3, effective January 1, 2019. § 37-5-69. [Codes, 1942, § 6271-08; Laws, 1953, Ex Sess ch. 10, § 8; Laws, 1962, chs. 344, 345, 346; Laws, 1966, ch. 406, § 1; Laws, 1968, ch. 384, § 1; ch. 398, § 1; Laws, 1970, ch. 372, § 1, eff from and after passage (approved April 1, 1970).] § 37-5-71. [Laws, 1978, ch. 412, § 1; Laws, 1980, ch. 398, § 1; Laws, 1981, ch. 317, § 1; Laws, 1992, ch. 396 § 2; Laws, 2000, ch. 506, § 1; Laws, 2006, ch. 552, § 1; Laws, 2009, ch. 431, § 2; Laws, 2012, ch. 525, § 3; Laws, 2017, ch. 301, § 4, eff from and after passage (approved Jan. 17, 2017).] Former § 37-5-67 authorized the appointment of county superintendent by county boards of education in certain counties.

Editor's Notes — Former § 37-5-69 abolished the office of county superintendent of education in certain counties and excepted certain counties from provisions concerning the choosing of a superintendent.]

Former § 37-5-71 related to the selection and qualifications of county superintendents of education.

Former § 37-5-69 abolished the office of county superintendent of education in certain counties and excepted certain counties from provisions concerning the choosing of a superintendent.

§ 37-5-75. Repealed.

Repealed by Laws of 2016, ch. 311, § 3, effective January 1, 2019. § 37-5-75. [Codes, 1942, § 6271-08; Laws, 1953, Ex Sess ch. 10, § 8; Laws, 1962, chs. 344, 345, 346; Laws, 1966, ch. 406, § 1; Laws, 1968, ch. 384, § 1; ch. 398,

§ 1; Laws, 1970, ch. 372, § 1; Laws, 2000, ch. 592, § 16; Laws, 2017, ch. 301, § 5, eff from and after passage (approved Jan. 17, 2017).]

Editor's Notes — Former § 37-5-75 related to the filling of a vacancy in the office of county superintendent of education.

CHAPTER 7.

SCHOOL DISTRICTS; BOARDS OF TRUSTEES OF SCHOOL DISTRICTS

Article 3. Abolition, Alteration and Creation of Districts. 37-7-101
Article 7. Boards of Trustees; General Powers and Duties. 37-7-301

ARTICLE 3.

ABOLITION, ALTERATION AND CREATION OF DISTRICTS.

Sec.
37-7-104.4. Administrative consolidation of Montgomery County and Winona Municipal Separate School Districts into new countywide separate school district designated Winona-Montgomery Consolidated School District; procedure.

§ 37-7-104.4. Administrative consolidation of Montgomery County and Winona Municipal Separate School Districts into new countywide separate school district designated Winona-Montgomery Consolidated School District; procedure.

(1) In Montgomery County, Mississippi, in which are located, as of January 1, 2016, two (2) school districts, there shall be an administrative consolidation of all of those school districts in the county into one (1) new countywide municipal separate school district to be designated as Winona-Montgomery Consolidated School District which shall consist of the territory of the former Montgomery County School District and the Winona Municipal Separate School District, effective on July 1, 2018. At such time that the administrative consolidation becomes effective, the central administrative office of the Winona-Montgomery Consolidated School District shall be located in Winona, Mississippi.

(2) As soon as practicable, a financial advisor and/or other facilitator with school district experience may be assigned by the Mississippi Department of Education to oversee the budgeting and financial matters relating to the consolidation of the districts slated for consolidation. The financial advisor and/or facilitator may, at the discretion of the Mississippi Department of Education, continue duties for one (1) year after the consolidation to ensure that all financial matters are in place. All financial expenditures of districts

that are closing must be approved by the financial advisor and/or facilitator. If the superintendent and/or school board approves expenditures outside of this approval, they shall be personally liable for the excess expenditures. The State Board of Education shall determine the compensation to be paid to the financial advisor and/or facilitator which shall be paid by the local school district to which the financial advisor and/or facilitator is assigned.

(3)(a) On or before September 1, 2017, the State Board of Education shall serve the local school board of the Winona Municipal Separate School District and the local school board of the Montgomery County School District with notice and instructions regarding the timetable for action to be taken to comply with the administrative consolidation required in this section.

(b) The members of the Winona-Montgomery Consolidated School District Board of Trustees serving on July 1, 2020, shall continue to serve until January 1, 2021, when the membership shall be reconstituted as follows: On the first Tuesday after the first Monday in November 2020, a special election shall be held in Montgomery County for the purpose of electing a new board of trustees of such district, which shall be elected from the Supervisors Districts of Montgomery County. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at special elections as vacancies occur for terms of five (5) years each. All members shall reside in the supervisors district which the member represents, and shall take office on the first Monday of January following the date of their election. All trustees of said school district shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229, Mississippi Code of 1972. All vacancies which may occur during a term shall be filled by appointment of the consolidated school district trustees from the qualified electors of the district in which the vacancy occurs. However, the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as a trustee is elected for the full term then expiring and the person so elected to the unexpired term shall take office immediately. Any school board member of the former school districts residing in the proper territory shall be eligible for appointment or election to the new Board of Trustees for Winona-Montgomery Consolidated School District.

(c) Any school district affected by the required administrative consolidation in the county that does not voluntarily consolidate as ordered by the State Board of Education shall be administratively consolidated by the State Board of Education, to be effective immediately upon action of the State Board of Education. The State Board of Education shall promptly move on its own motion to administratively consolidate a school district which does not voluntarily consolidate in order to enable the affected school districts to

reasonably accomplish the resulting administrative consolidation into one (1) consolidated school district by July 1 following the motion to consolidate. The affected school districts shall comply with any consolidation order issued by the State Board of Education.

(4)(a) On July 1, 2018, following the motion of the State Board of Education to consolidate school districts in Montgomery County, the Montgomery County School District shall be abolished. All real and personal property which is owned or titled in the name of the school district located in such former school district shall be transferred to the Winona-Montgomery Consolidated School District as of July 1, 2018.

(b) The new board of trustees of the Winona-Montgomery Consolidated School District shall be responsible for establishing the contracts for operations, teachers, principals, clerical and administrative staff personnel for the 2018-2019 school year and each school year thereafter.

(c) The Superintendent of the Winona-Montgomery Consolidated School District shall be appointed by the board and is authorized to appoint an assistant superintendent, but in no instance shall the administrative leadership of the Winona-Montgomery Consolidated School District exceed three (3) assistant superintendents to be appointed by the Superintendent of the Winona-Montgomery Consolidated School District.

(d) It shall be the responsibility of the board of trustees to prepare and approve the budget of the respective new reorganized district, and the board of trustees may use staff from the former school district to prepare the budget. Any transfer of the assets, real or personal property of the Montgomery County School District mandated by this section shall be final and conclusive for the purposes of the transfer of property required by this section to effectuate the administrative consolidation.

(e) Any person or school district aggrieved by an order of the successor newly selected Board of Trustees of the Winona-Montgomery Consolidated School District pursuant to the required administrative consolidation may appeal therefrom within ten (10) days from the date of the adjournment of the meeting at which such order is entered. The appeal shall be taken in the same manner as appeals are taken from judgments or decisions of the board of supervisors as provided in Section 11-51-75, the provisions of which shall be fully applicable to appeals taken hereunder. The Board of Trustees of the Winona-Montgomery Consolidated School District shall not pass upon or approve or disapprove any such order until the time for an appeal therefrom has expired, nor shall the board pass upon or approve or disapprove any such order from which an appeal is taken until said appeal has been finally determined.

(5) Nothing in this section shall be construed to require the closing of any school or school facility, unless the facility is an unneeded administrative office located within a school district which has been abolished under the provisions of this section. All administrative consolidations under this section shall be accomplished so as not to delay or in any manner negatively affect the desegregation of another school district in the county pursuant to court order.

(6) The State Board of Education shall promulgate rules and regulations to facilitate the administrative consolidation of the school districts in Montgomery County pursuant to the requirements of this section. Beginning with the insurance cafeteria plan year of November 1, 2018, the consolidated districts shall fall under all insurance plans and policies elected by the Winona-Montgomery Consolidated School District, including the group term life insurance described in Section 25-15-9(7).

(7) The County Board of Education and the Superintendent of Education of the former Montgomery County School District and the local school board and Superintendent of Schools of the Winona Municipal Separate School District shall cooperate with the State Department of Education, as soon as practicable after July 1, 2016, for the planning and transition of programs, services and alignment of curriculum for the administratively consolidated school districts.

(8) It shall be the responsibility of the Board of Supervisors of Montgomery County to provide office, furnishing and utilities for the administrative Office of the Superintendent of the Winona-Montgomery Consolidated School District.

(9) One (1) year prior to the date of consolidation, a financial advisor and/or other facilitator with school district experience may be assigned by the Mississippi Department of Education to oversee the budgeting and financial matters relating to the consolidation of the districts slated for consolidation. The financial advisor and/or facilitator may, at the discretion of the Mississippi Department of Education, continue duties for one (1) year after the consolidation to ensure that all financial matters are in place. All financial expenditures of districts that are closing must be approved by the financial advisor and/or facilitator. If the superintendent and/or school board approves expenditures outside of this approval, they shall be personally liable for the excess expenditures. The State Board of Education shall determine the compensation to be paid to the financial advisor and/or facilitator which shall be paid by the local school district.

HISTORY: Laws, 2016, ch. 465, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 311, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment rewrote (3)(b) to reconstitute the Winona-Montgomery Consolidated School District Board of Trustees as of January 1, 2021.

§ 37-7-105. Procedure for alteration of district boundaries or consolidation of school districts by school boards; effect of consolidation as to contracts and taxation.

JUDICIAL DECISIONS

1. In general.

Nothing suggests that the deadline for appeal in Miss. Code Ann. 37-7-115 is affected by the publication required by Miss. Code Ann. § 37-7-105; the deadline to file an appeal pursuant to § 37-7-115 is

ten days from the date of the meeting in which the order of consolidation was entered, not final, and § 37-7-115 appeals are taken in the same manner as Miss. Code Ann. § 11-51-75 appeals, which do not require publication in a newspaper. Pearl River Cty. Bd. of Supervisors v. Miss. State Bd. of Educ., 289 So. 3d 301, 2020 Miss. LEXIS 30 (Miss. 2020).

§ 37-7-115. Appeals from school board orders.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. Appeal untimely.
3. Person aggrieved.

1. In general.

Nothing suggests that the deadline for appeal in Miss. Code Ann. 37-7-115 is affected by the publication required by Miss. Code Ann. § 37-7-105; the deadline to file an appeal pursuant to § 37-7-115 is ten days from the date of the meeting in which the order of consolidation was entered, not final, and § 37-7-115 appeals are taken in the same manner as Miss. Code Ann. § 11-51-75 appeals, which do not require publication in a newspaper. Pearl River Cty. Bd. of Supervisors v. Miss. State Bd. of Educ., 289 So. 3d 301, 2020 Miss. LEXIS 30 (Miss. 2020).

2. Appeal untimely.

Chancery court did not err by finding that an appeal was untimely filed pursuant to the statute because the statute provided the exclusive remedy by which a county could challenge the consolidation of school districts. Pearl River Cty. Bd. of Supervisors v. Miss. State Bd. of Educ., 289 So. 3d 301, 2020 Miss. LEXIS 30 (Miss. 2020).

Chancery court did not err by finding that an appeal was untimely filed pursuant to the statute because publication was not required for the appeal deadline to begin to run pursuant to the statute. Pearl River Cty. Bd. of Supervisors v. Miss. State Bd. of Educ., 289 So. 3d 301, 2020 Miss. LEXIS 30 (Miss. 2020).

3. Person aggrieved.

Based on the language of Miss. Code Ann. § 1-3-39, and the statements made by the county, the county was a "person aggrieved" for the purposes of Miss. Code Ann. § 37-7-115 because the county stated multiple times during proceedings that government property was at issue, and the property it was addressing in the action was the property of residents who would be assessed ad valorem taxes. Pearl River Cty. Bd. of Supervisors v. Miss. State Bd. of Educ., 289 So. 3d 301, 2020 Miss. LEXIS 30 (Miss. 2020).

ARTICLE 7.

BOARDS OF TRUSTEES; GENERAL POWERS AND DUTIES.

Sec.

37-7-307. Regulation of leaves for licensed and nonlicensed employees; employment of substitute teachers; donations of leave to other employees; accumulated leave; conversion of certain vacation days to sick leave; definitions.

§ 37-7-307. Regulation of leaves for licensed and nonlicensed employees; employment of substitute teachers; donations of leave to other employees; accumulated leave; conversion of certain vacation days to sick leave; definitions.

(1) For purposes of this section, the term "licensed employee" means any employee of a public school district required to hold a valid license by the Commission on Teacher and Administrator Education, Certification and Licensure and Development.

(2) The school board of a school district shall establish by rules and regulations a policy of sick leave with pay for licensed employees and teacher assistants employed in the school district, and such policy shall include the following minimum provisions for sick and emergency leave with pay:

(a) Each licensed employee and teacher assistant, at the beginning of each school year, shall be credited with a minimum sick leave allowance, with pay, of seven (7) days for absences caused by illness or physical disability of the employee during that school year.

(b) Any unused portion of the total sick leave allowance shall be carried over to the next school year and credited to such licensed employee and teacher assistant if the licensed employee or teacher assistant remains employed in the same school district. In the event any public school licensed employee or teacher assistant transfers from one public school district in Mississippi to another, any unused portion of the total sick leave allowance credited to such licensed employee or teacher assistant shall be credited to such licensed employee or teacher assistant in the computation of unused leave for retirement purposes under Section 25-11-109. Accumulation of sick leave allowed under this section shall be unlimited.

(c) No deduction from the pay of such licensed employee or teacher assistant may be made because of absence of such licensed employee or teacher assistant caused by illness or physical disability of the licensed employee or teacher assistant until after all sick leave allowance credited to such licensed employee or teacher assistant has been used.

(d) For the first ten (10) days of absence of a licensed employee because of illness or physical disability, in any school year, in excess of the sick leave allowance credited to such licensed employee, there shall be deducted from the pay of such licensed employee the established substitute amount of licensed employee compensation paid in that local school district, necessitated because of the absence of the licensed employee as a result of illness or physical disability. In lieu of deducting the established substitute amount from the pay of such licensed employee, the policy may allow the licensed employee to receive full pay for the first ten (10) days of absence because of illness or physical disability, in any school year, in excess of the sick leave allowance credited to such licensed employee. Thereafter, the regular pay of such absent licensed employee shall be suspended and withheld in its entirety for any period of absence because of illness or physical disability during that school year.

(3)(a) Beginning with the school year 1983-1984, each licensed employee at the beginning of each school year shall be credited with a minimum personal leave allowance, with pay, of two (2) days for absences caused by personal reasons during that school year. Effective for the 2010-2011 and 2011-2012 school years, licensed employees shall be credited with an additional one-half (1/2) day of personal leave for every day the licensed employee is furloughed without pay as provided in Section 37-7-308. Except as otherwise provided in paragraph (b) of this subsection, such personal leave shall not be taken on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday. Personal leave may be used for professional purposes, including absences caused by attendance of such licensed employee at a seminar, class, training program, professional association or other functions designed for educators. No deduction from the pay of such licensed employee may be made because of absence of such licensed employee caused by personal reasons until after all personal leave allowance credited to such licensed employee has been used. However, the superintendent of a school district, in his discretion, may allow a licensed employee personal leave in addition to any minimum personal leave allowance, under the condition that there shall be deducted from the salary of such licensed employee the actual amount of any compensation paid to any person as a substitute, necessitated because of the absence of the licensed employee. Any unused portion of the total personal leave allowance up to five (5) days shall be carried over to the next school year and credited to such licensed employee if the licensed employee remains employed in the same school district. Any personal leave allowed for a furlough day shall not be carried over to the next school year.

(b) Notwithstanding the restrictions on the use of personal leave prescribed under paragraph (a) of this subsection, a licensed employee may use personal leave as follows:

(i) Personal leave may be taken on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday if, on the applicable day, an immediate family member of the employee is being deployed for military service.

(ii) Personal leave may be taken on a day previous to a holiday or a day after a holiday if an employee of a school district has either a minimum of ten (10) years' experience as an employee of that school district or a minimum of thirty (30) days of unused accumulated leave that has been earned while employed in that school district.

(iii) Personal leave may be taken on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday if, on the applicable day, the employee has been summoned to appear for jury duty or as a witness in court.

(iv) Personal leave may be taken on the first day of the school term, the last day of the school term, on a day previous to a holiday or a day after a holiday if, on the applicable day, an immediate family member of the employee dies or funeral services are held. Any day of the three (3)

bereavement days may be used at the discretion of the teacher, and are not required to be taken in consecutive succession.

For the purpose of this subsection (3), the term "immediate family member" means spouse, parent, stepparent, child or stepchild, grandparent or sibling, including a stepbrother or stepsister.

(4) Beginning with the school year 1992-1993, each licensed employee shall be credited with a professional leave allowance, with pay, for each day of absence caused by reason of such employee's statutorily required membership and attendance at a regular or special meeting held within the State of Mississippi of the State Board of Education, the Commission on Teacher and Administrator Education, Certification and Licensure and Development, the Commission on School Accreditation, the Mississippi Authority for Educational Television, the meetings of the state textbook rating committees or other meetings authorized by local school board policy.

(5) Upon retirement from employment, each licensed and nonlicensed employee shall be paid for not more than thirty (30) days of unused accumulated leave earned while employed by the school district in which the employee is last employed. Such payment for licensed employees shall be made by the school district at a rate equal to the amount paid to substitute teachers and for nonlicensed employees, the payment shall be made by the school district at a rate equal to the federal minimum wage. The payment shall be treated in the same manner for retirement purposes as a lump-sum payment for personal leave as provided in Section 25-11-103(f). Any remaining lawfully credited unused leave, for which payment has not been made, shall be certified to the Public Employees' Retirement System in the same manner and subject to the same limitations as otherwise provided by law for unused leave. No payment for unused accumulated leave may be made to either a licensed or nonlicensed employee at termination or separation from service for any purpose other than for the purpose of retirement.

(6) The school board may adopt rules and regulations which will reasonably aid to implement the policy of sick and personal leave, including, but not limited to, rules and regulations having the following general effect:

(a) Requiring the absent employee to furnish the certificate of a physician or dentist or other medical practitioner as to the illness of the absent licensed employee, where the absence is for four (4) or more consecutive school days, or for two (2) consecutive school days immediately preceding or following a nonschool day;

(b) Providing penalties, by way of full deduction from salary, or entry on the work record of the employee, or other appropriate penalties, for any materially false statement by the employee as to the cause of absence;

(c) Forfeiture of accumulated or future sick leave, if the absence of the employee is caused by optional dental or medical treatment or surgery which could, without medical risk, have been provided, furnished or performed at a time when school was not in session;

(d) Enlarging, increasing or providing greater sick or personal leave allowances than the minimum standards established by this section in the discretion of the school board of each school district.

(7) School boards may include in their budgets provisions for the payment of substitute employees, necessitated because of the absence of regular licensed employees. All such substitute employees shall be paid wholly from district funds, except as otherwise provided for long-term substitute teachers in Section 37-19-20. Such school boards, in their discretion, also may pay, from district funds other than adequate education program funds, the whole or any part of the salaries of all employees granted leaves for the purpose of special studies or training.

(8) The school board may further adopt rules and regulations which will reasonably implement such leave policies for all other nonlicensed and hourly paid school employees as the board deems appropriate. Effective for the 2010-2011 and 2011-2012 school years, nonlicensed employees shall be credited with an additional one-half (1/2) day of personal leave for every day the nonlicensed employee is furloughed without pay as provided in Section 37-7-308.

(9) Vacation leave granted to either licensed or nonlicensed employees shall be synonymous with personal leave. Unused vacation or personal leave accumulated by licensed employees in excess of the maximum five (5) days which may be carried over from one year to the next may be converted to sick leave. The annual conversion of unused vacation or personal leave to sick days for licensed or unlicensed employees shall not exceed the allowable number of personal leave days as provided in Section 25-3-93. The annual total number of converted unused vacation and/or personal days added to the annual unused sick days for any employee shall not exceed the combined allowable number of days per year provided in Sections 25-3-93 and 25-3-95. Local school board policies that provide for vacation, personal and sick leave for employees shall not exceed the provisions for leave as provided in Sections 25-3-93 and 25-3-95. Any personal or vacation leave previously converted to sick leave under a lawfully adopted policy before May 1, 2004, or such personal or vacation leave accumulated and available for use prior to May 1, 2004, under a lawfully adopted policy but converted to sick leave after May 1, 2004, shall be recognized as accrued leave by the local school district and available for use by the employee. The leave converted under a lawfully adopted policy prior to May 1, 2004, or such personal and vacation leave accumulated and available for use as of May 1, 2004, which was subsequently converted to sick leave may be certified to the Public Employees' Retirement System upon termination of employment and any such leave previously converted and certified to the Public Employees' Retirement System shall be recognized.

(10)(a) For the purposes of this subsection, the following words and phrases shall have the meaning ascribed in this paragraph unless the context requires otherwise:

(i) "Catastrophic injury or illness" means a life-threatening injury or illness of an employee or a member of an employee's immediate family that totally incapacitates the employee from work, as verified by a licensed physician, and forces the employee to exhaust all leave time earned by that employee, resulting in the loss of compensation from the local school

district for the employee. Conditions that are short-term in nature, including, but not limited to, common illnesses such as influenza and the measles, and common injuries, are not catastrophic. Chronic illnesses or injuries, such as cancer or major surgery, that result in intermittent absences from work and that are long-term in nature and require long recuperation periods may be considered catastrophic.

(ii) "Immediate family" means spouse, parent, stepparent, sibling, child or stepchild, grandparent, stepbrother or stepsister.

(b) Any school district employee may donate a portion of his or her unused accumulated personal leave or sick leave to another employee of the same school district who is suffering from a catastrophic injury or illness or who has a member of his or her immediate family suffering from a catastrophic injury or illness, in accordance with the following:

(i) The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of unused accumulated personal leave and sick leave that is to be donated, and shall notify the school district superintendent or his designee of his or her designation.

(ii) The maximum amount of unused accumulated personal leave that an employee may donate to any other employee may not exceed a number of days that would leave the donor employee with fewer than seven (7) days of personal leave remaining, and the maximum amount of unused accumulated sick leave that an employee may donate to any other employee may not exceed fifty percent (50%) of the unused accumulated sick leave of the donor employee.

(iii) An employee must have exhausted all of his or her available leave before he or she will be eligible to receive any leave donated by another employee. Eligibility for donated leave shall be based upon review and approval by the donor employee's supervisor.

(iv) Before an employee may receive donated leave, he or she must provide the school district superintendent or his designee with a physician's statement that states that the illness meets the catastrophic criteria established under this section, the beginning date of the catastrophic injury or illness, a description of the injury or illness, and a prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.

(v) Before an employee may receive donated leave, the superintendent of education of the school district shall appoint a review committee to approve or disapprove the said donations of leave, including the determination that the illness is catastrophic within the meaning of this section.

(vi) If the total amount of leave that is donated to any employee is not used by the recipient employee, the whole days of donated leave shall be

returned to the donor employees on a pro rata basis, based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees.

(vii) Donated leave shall not be used in lieu of disability retirement.

(11) Effective January 1, 2020, the provisions of this section shall be fully applicable to any licensed employee of the Mississippi School of the Arts (MSA).

HISTORY: Codes, 1942, § 6328-28; Laws, 1953, Ex Sess, ch. 17, § 8; Laws, 1978, ch. 513, § 1, 1982, ch. 491; Laws, 1986, ch. 492, § 13; Laws, 1986, ch. 493; Laws, 1987, ch. 307, § 5, 1992, ch. 450, § 1; Laws, 1994, ch. 623, § 1; Laws, 1995, ch. 586, § 1; Laws, 1996, ch. 548, § 1; Laws, 1998, ch. 580, § 1; Laws, 1999, ch. 561, § 2; Laws, 2003, ch. 458, § 1; Laws, 2003, ch. 546, § 1; Laws, 2004, ch. 480, § 1; Laws, 2005, ch. 354, § 1; Laws, 2010, ch. 486, § 3; Laws, 2012, ch. 463, § 1; Laws, 2012, ch. 543, § 7; Laws, 2015, ch. 341, § 1, eff from and after July 1, 2015; Laws, 2019, ch. 307, § 1, eff from and after July 1, 2019; Laws, 2019, ch. 432, § 5, eff from and after July 1, 2019.

Editor's Notes — This section is set out above to correct errors in subsections (3) and (10) as they appeared in the 2019 Replacement Volume 10.

§ 37-7-315. Designation of school buildings and attendance centers.

HISTORY: Codes, 1942, § 6328-05; Laws, 1953, Ex Sess, ch. 12, § 5; Laws, 1960, ch. 303; Laws, 1986, ch. 492, § 15, eff from and after July 1, 1987; brought forward without change, Laws, 2020, ch. 370, § 2, eff from and after the date the U.S. District Court for the Northern District of Mississippi approves the bringing forward of this section.

Editor's Notes — This section was brought forward without change by Laws of 2020, ch. 370, § 2, effective from and after the date Chapter 370 is approved by the U.S. District Court for the Northern District of Mississippi. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Laws of 2020, ch. 370, §§ 3 and 4 provide:

"SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the United States District Court, Northern District of Mississippi, such court having jurisdiction over a desegregation order concerning one or more school districts affected by the requirements provided in this act.

"SECTION 4. This act shall take effect and be in force from and after the date it is approved by the District Court Judge for the United States District Court, Northern District of Mississippi."

Amendment Notes — The 2020 amendment brought the section forward without change. For contingent effective date, see Editor's Note.

§ 37-7-315.1. Consolidation of system of high schools in Tate County; closure of Coldwater High School [For contingent effective date, see Editor's Note].

Editor's Notes — Laws of 2020, ch. 370, §§ 3 and 4 provide:

"SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the United States District Court, Northern District of Mississippi, such court having jurisdiction over a desegregation order concerning one or more school districts affected by the requirements provided in this act.

"SECTION 4. This act shall take effect and be in force from and after the date it is approved by the District Court Judge for the United States District Court, Northern District of Mississippi."

CHAPTER 9.

DISTRICT SUPERINTENDENTS, PRINCIPALS, TEACHERS, AND OTHER EMPLOYEES

IN GENERAL

(1) Not later than July 1, 2020, the Tate County School Board, having jurisdiction over three (3) high schools within the Tate County School District, shall consolidate its system of high schools by closing Coldwater High School upon the completion of the 2019-2020 scholastic year. Factors used in determining the necessity to close Coldwater High School consists of the following criteria:

(a) Coldwater High School has consistently and chronically underperformed, as determined by its grade designation under the statewide school accountability rating system, as determined by the State Board of Education for the last four (4) accreditation cycles as follows:

(i) Maintained a "F" accountability rating for the 2016, 2017 and 2018 school years; and

(ii) Achieved a "D" accountability rating for the 2019 school year;

(b) Coldwater High School has maintained an average annual enrollment of approximately one hundred (100) students for the last four (4) scholastic terms;

(c) Coldwater High School's average annual student enrollment for the last four (4) scholastic terms represents less than four percent (4%) of the overall student enrollment for the Tate County School District;

(d) Coldwater High School provides a limited selection of robust and advanced course offerings as part of its adopted curriculum; and

(e) An assessment of Coldwater High School's graduation percentage rates and dropout percentage rates in comparison to the other remaining

two (2) high schools throughout Tate County, the Senatobia Municipal School District and in surrounding counties.

(2) Under the authority provided in Section 37-7-315, the Tate County School Board shall execute a plan to provide for the closure of Coldwater High School, which shall be spread upon the minutes of its regularly scheduled meeting or at a special meeting called for the specific purpose of the school closure. At said meeting, the Tate County School Board shall:

(a) Issue an order to provide that the attendance zone of Coldwater High School shall be collapsed and redrawn for distribution in equal proportions to the school attendance zones for Independence High School and Strayhorn High School. The Tate County School Board shall thereafter publish the same in some newspaper of general circulation in the county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the school board, the new high school attendance zones will thereafter be effective;

(b) Issue an order to provide that upon such closure, students attending Coldwater High School shall have the discretion to choose whether to:

(i) Attend either Independence High School or Strayhorn High School in a manner that does not disparately impact the desegregation of either school; or

(ii) Transfer to the Senatobia Municipal School District, provided that the appropriate high school located therein is closest in proximity to the student's residence than either of the two (2) high schools in the Tate County School District; and

(c) Issue an order to enter agreement with the Senatobia Municipal School Board for the release by the Tate County School Board and subsequent acceptance by the Senatobia Municipal School District of students affected by the closure of Coldwater High School. The agreement between each school board made parties thereto must consider the composition of the district boundaries of the Tate County School District, as it existed on January 1, 2020, to ensure that the student population eligible to be transferred from the Coldwater High School attendance zone to the Senatobia Municipal School District does not disparately impact the desegregation of either school district entering into agreement.

HISTORY: Laws, 2020, ch. 370, § 1, eff from and after the date the U.S. District Court for the Northern District of Mississippi approves the addition of this section.

Joint Legislative Committee Note.-- The Joint Committee ratified the correction at its August 12, 2019, meeting.

§ 37-9-59. Grounds and procedure for dismissal or suspension of licensed employee; attendance at different school system by child as ground for denying employment or reemployment of superintendent, principal or licensed employee.

JUDICIAL DECISIONS

ANALYSIS

1. Suspension and removal—In general.
3. —Principals.
4. —Teachers — In general.

1. Suspension and removal—In general.

3. —Principals.

Chancery court erred in reversing the decision of the board of trustees of a public school district because the decision upholding the principal's termination/demotion was a valid termination of her employment as a principal; the school district's willingness to continue to employ the principal as an assistant principal did not invalidate its otherwise lawful termination because a demotion was a termination of present employment coupled with an offer of employment in a different position. Jackson Pub. Sch. Dist. v. Mason, 295 So. 3d 484, 2019 Miss. App. LEXIS 459 (Miss. Ct. App. 2019), cert. denied, 293 So. 3d 832, 2020 Miss. LEXIS 222 (Miss. 2020).

School district's initial offer to a principal was based on the erroneous premise that it could still non-renew her contract on May 12 because the March 1 deadline had passed, and the principal's contract was automatically renewed for the next school year and could not be non-renewed; however, because the school district ultimately did not attempt to non-renew the principal's contract, the error in its initial letter to the principal was harmless. Jackson Pub. Sch. Dist. v. Mason, 295 So. 3d 484, 2019 Miss. App. LEXIS 459 (Miss. Ct. App. 2019), cert. denied, 293 So. 3d 832, 2020 Miss. LEXIS 222 (Miss. 2020).

4. —Teachers — In general.

School board's decision to terminate a teacher for allegedly authoring racially inflammatory social media posts was not appropriate because there was no substantial evidence that the teacher authored the alleged posts and there was no substantial evidence that the teacher exercised poor judgment by failing to adequately protect the teacher's social-media account. S. Panola Sch. Dist. v. Rone, — So. 3d —, 2020 Miss. App. LEXIS 534 (Miss. Ct. App. Sept. 15, 2020).

EDUCATION EMPLOYMENT PROCEDURES LAW

§ 37-9-105. Written notice of decision not to offer employee renewal contract; deadline for notification of nonreemployment.

JUDICIAL DECISIONS

5. Good cause for nonrenewal.

Chancery court erred in reversing the decision of the board of trustees of a public school district because the decision upholding the principal's termination/demotion was a valid termination of her employment as a principal; the school district's willingness to continue to employ the principal as an assistant principal did not invalidate its otherwise lawful

termination because a demotion was a termination of present employment coupled with an offer of employment in a different position. Jackson Pub. Sch. Dist. v. Mason, 295 So. 3d 484, 2019 Miss. App. LEXIS 459 (Miss. Ct. App. 2019), cert. denied, 293 So. 3d 832, 2020 Miss. LEXIS 222 (Miss. 2020).

§ 37-9-111. Hearing.

JUDICIAL DECISIONS

6. Decision following hearing.

School board's decision to terminate a teacher for allegedly authoring racially inflammatory social media posts was not appropriate because there was no substantial evidence that the teacher authored the alleged posts and there was no substantial evidence that the teacher exercised poor judgment by failing to adequately protect the teacher's social-media account. S. Panola Sch. Dist. v. Rone, — So. 3d —, 2020 Miss. App. LEXIS 534 (Miss. Ct. App. Sept. 15, 2020).

§ 37-9-113. Judicial review.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. Scope of appeal; jurisdiction.
5. Miscellaneous.

1. In general.

Chancery court erred in reversing the decision of the board of trustees of a public school district because the decision upholding the principal's termination/demotion was a valid termination of her employment as a principal; the school district's willingness to continue to employ the principal as an assistant principal did not invalidate its otherwise lawful termination because a demotion was a termination of present employment coupled with an offer of employment in a different position. Jackson Pub. Sch. Dist. v. Mason, 295 So. 3d 484, 2019 Miss. App. LEXIS 459 (Miss. Ct. App. 2019), cert. denied, 293 So. 3d 832, 2020 Miss. LEXIS 222 (Miss. 2020).

2. Scope of appeal; jurisdiction.

Chancery court's reversal of a school board's decision to terminate a teacher for allegedly authoring racially inflammatory social media posts was appropriate because the court did not err by finding that there was no substantial evidence that the teacher authored the alleged posts and by finding that there was no substantial evidence that the teacher exercised poor judgment by failing to adequately protect the teacher's social-media account. S. Panola Sch. Dist. v. Rone, — So. 3d —, 2020 Miss. App. LEXIS 534 (Miss. Ct. App. Sept. 15, 2020).

5. Miscellaneous.

School district's initial offer to a principal was based on the erroneous premise that it could still non-renew her contract on May 12 because the March 1 deadline had passed, and the principal's contract was automatically renewed for the next school year and could not be non-renewed; however, because the school district ultimately did not attempt to non-renew the principal's contract, the error in its initial letter to the principal was harmless. Jack-

son Pub. Sch. Dist. v. Mason, 295 So. 3d 484, 2019 Miss. App. LEXIS 459 (Miss. Ct. App. 2019), cert. denied, 293 So. 3d 832, 2020 Miss. LEXIS 222 (Miss. 2020).

CHAPTER 11.

GENERAL PROVISIONS PERTAINING TO EDUCATION

Sec.
37-11-27. Interest in contracts involving public schools.

§ 37-11-27. Interest in contracts involving public schools.

It shall be unlawful for any member of the board of trustees of any school district, any member of the county board of education, the county superintendent of education, or any superintendent, principal or other school district administrator with authority to negotiate school district contracts, to have or own any direct or indirect interest individually or as agent or employee of any person, partnership, firm, or corporation in any contract made or let by the county board of education, the county superintendent of education or the board of trustees of the school district for the construction, repair, or improvement of any school facility, the furnishing of any supplies, materials, or other articles, the doing of any public work or the transportation of children or upon any subcontract arising therefrom or connected therewith in any manner. The board of trustees of any school district shall be authorized to contract with a teacher or school district employee to perform extra work without being in violation of the provisions of this section. The board of trustees shall make a case-by-case determination of the possible conflicts of interest arising from any extra work contracts and such decision by the board shall be final. Any contract entered into in violation of the provisions of this section shall be void and of no effect. Any person who shall authorize or enter into any contract in violation of the provisions hereof, or who shall knowingly or willfully pay out or receive any money upon any such contract shall be civilly liable for the amount so paid or received, and, in the case of an official who has furnished a bond, the surety upon such bond shall likewise be liable for such amount. In addition thereto, any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not less than thirty (30) days

nor more than ninety (90) days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: Codes, 1942, § 6328-29; Laws, 1953, Ex Sess, ch. 17, § 9; Laws, 1989, ch. 585, § 5, effective April 25, 1989 (became law without the Governor's signature); Laws, 2020, ch. 309, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in the first sentence, substituted "or other school district administrator with authority to negotiate school district contracts" for "teacher, or employee of a county board of education or any school district"; and made punctuation and minor stylistic changes.

CHAPTER 13.

CURRICULUM; SCHOOL YEAR AND ATTENDANCE

Mississippi Compulsory School Attendance Law. 37-13-80

MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW

Sec.
37-13-89. School attendance officers; qualifications; duties; salaries.

§ 37-13-89. School attendance officers; qualifications; duties; salaries.

(1) In each school district within the state, there shall be employed the number of school attendance officers determined by the Office of Compulsory School Attendance Enforcement to be necessary to adequately enforce the provisions of the Mississippi Compulsory School Attendance Law; however, this number shall not exceed one hundred fifty-three (153) school attendance officers at any time. From and after July 1, 1998, all school attendance officers employed pursuant to this section shall be employees of the State Department of Education. The State Department of Education shall employ all persons employed as school attendance officers by district attorneys before July 1, 1998, and shall assign them to school attendance responsibilities in the school district in which they were employed before July 1, 1998. The first twelve (12) months of employment for each school attendance officer shall be the probationary period of state service.

(2)(a) The State Department of Education shall obtain current criminal records background checks and current child abuse registry checks on all persons applying for the position of school attendance officer after July 2, 2002. The criminal records information and registry checks must be kept on file for any new hires. In order to determine an applicant's suitability for employment as a school attendance officer, the applicant must be fingerprinted. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check.

The applicant shall pay the fee, not to exceed Fifty Dollars ($50.00), for the fingerprinting and criminal records background check; however, the State Department of Education, in its discretion, may pay the fee for the fingerprinting and criminal records background check on behalf of any applicant. Under no circumstances may a member of the State Board of Education, employee of the State Department of Education or any person other than the subject of the criminal records background check disseminate information received through any such checks except insofar as required to fulfill the purposes of this subsection.

(b) If the fingerprinting or criminal records check discloses a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault which has not been reversed on appeal or for which a pardon has not been granted, the applicant is not eligible to be employed as a school attendance officer. Any employment of an applicant pending the results of the fingerprinting and criminal records check is voidable if the new hire receives a disqualifying criminal records check. However, the State Board of Education, in its discretion, may allow an applicant aggrieved by an employment decision under this subsection to appear before the board, or before a hearing officer designated for that purpose, to show mitigating circumstances that may exist and allow the new hire to be employed as a school attendance officer. The State Board of Education may grant waivers for mitigating circumstances, which may include, but are not necessarily limited to: (i) age at which the crime was committed; (ii) circumstances surrounding the crime; (iii) length of time since the conviction and criminal history since the conviction; (iv) work history; (v) current employment and character references; and (vi) other evidence demonstrating the ability of the person to perform the responsibilities of a school attendance officer competently and that the person does not pose a threat to the health or safety of children.

(c) A member of the State Board of Education or employee of the State Department of Education may not be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section.

(3) Each school attendance officer shall possess a college degree with a major in a behavioral science or a related field or shall have no less than three (3) years combined actual experience as a school teacher, school administrator, law enforcement officer possessing such degree, and/or social worker; however, these requirements shall not apply to persons employed as school attendance officers before January 1, 1987. School attendance officers also shall satisfy any additional requirements that may be established by the State Personnel Board for the position of school attendance officer.

(4) It shall be the duty of each school attendance officer to:

(a) Cooperate with any public agency to locate and identify all compulsory-school-age children who are not attending school;

(b) Cooperate with all courts of competent jurisdiction;

(c) Investigate all cases of nonattendance and unlawful absences by compulsory-school-age children not enrolled in a nonpublic school;

(d) Provide appropriate counseling to encourage all school-age children to attend school until they have completed high school;

(e) Attempt to secure the provision of social or welfare services that may be required to enable any child to attend school;

(f) Contact the home or place of residence of a compulsory-school-age child and any other place in which the officer is likely to find any compulsory-school-age child when the child is absent from school during school hours without a valid written excuse from school officials, and when the child is found, the officer shall notify the parents and school officials as to where the child was physically located;

(g) Contact promptly the home of each compulsory-school-age child in the school district within the officer's jurisdiction who is not enrolled in school or is not in attendance at public school and is without a valid written excuse from school officials; if no valid reason is found for the nonenrollment or absence from the school, the school attendance officer shall give written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance;

(h) Collect and maintain information concerning absenteeism, dropouts and other attendance-related problems, as may be required by law or the Office of Compulsory School Attendance Enforcement; and

(i) Perform all other duties relating to compulsory school attendance established by the State Department of Education or district school attendance supervisor, or both.

(5) While engaged in the performance of his duties, each school attendance officer shall carry on his person a badge identifying him as a school attendance officer under the Office of Compulsory School Attendance Enforcement of the State Department of Education and an identification card designed by the State Superintendent of Public Education and issued by the school attendance officer supervisor. Neither the badge nor the identification card shall bear the name of any elected public official.

(6) The State Personnel Board shall develop a salary scale for school attendance officers as part of the variable compensation plan. The various pay ranges of the salary scale shall be based upon factors including, but not limited to, education, professional certification and licensure, and number of years of experience. School attendance officers shall be paid in accordance with this salary scale. The minimum salaries under the scale shall be no less than the following:

(a) For school attendance officers holding a bachelor's degree or any other attendance officer who does not hold such a degree, the annual salary shall be based on years of experience as a school attendance officer or related field of service or employment, no less than as follows:

Years of Experience	Salary
0-4 years	$24,528.29

Years of Experience	Salary
5-8 years	26,485.29
9-12 years	28,050.89
13-16 years	29,616.49
Over 17 years	31,182.09

(b) For school attendance officers holding a license as a social worker, the annual salary shall be based on years of experience as a school attendance officer or related field of service or employment, no less than as follows:

Years of Experience	Salary
0-4 years	$25,558.29
5-8 years	27,927.29
9-12 years	29,822.49
13-16 years	31,717.69
17-20 years	33,612.89
Over 21 years	35,415.39

(c) For school attendance officers holding a master's degree in a behavioral science or a related field, the annual salary shall be based on years of experience as a school attendance officer or related field of service or employment, no less than as follows:

Years of Experience	Salary
0-4 years	$26,382.29
5-8 years	29,008.79
9-12 years	31,109.99
13-16 years	33,211.19
17-20 years	35,312.39
Over 21 years	37,413.59

(7)(a) Each school attendance officer employed by a district attorney on June 30, 1998, who became an employee of the State Department of Education on July 1, 1998, shall be awarded credit for personal leave and major medical leave for his continuous service as a school attendance officer under the district attorney, and if applicable, the youth or family court or a state agency. The credit for personal leave shall be in an amount equal to one-third (1/3) of the maximum personal leave the school attendance officer could have accumulated had he been credited with such leave under Section 25-3-93 during his employment with the district attorney, and if applicable, the youth or family court or a state agency. The credit for major medical leave shall be in an amount equal to one-half (1/2) of the maximum major medical leave the school attendance officer could have accumulated had he been credited with such leave under Section 25-3-95 during his employment with the district attorney, and if applicable, the youth or family court or a state agency. However, if a district attorney who employed a school attendance officer on June 30, 1998, certifies, in writing, to the State Department of Education that the school attendance officer had accumulated, pursuant

to a personal leave policy or major medical leave policy lawfully adopted by the district attorney, a number of days of unused personal leave or major medical leave, or both, which is greater than the number of days to which the school attendance officer is entitled under this paragraph, the State Department of Education shall authorize the school attendance officer to retain the actual unused personal leave or major medical leave, or both, certified by the district attorney, subject to the maximum amount of personal leave and major medical leave the school attendance officer could have accumulated had he been credited with such leave under Sections 25-3-93 and 25-3-95.

(b) For the purpose of determining the accrual rate for personal leave under Section 25-3-93 and major medical leave under Section 25-3-95, the State Department of Education shall give consideration to all continuous service rendered by a school attendance officer before July 1, 1998, in addition to the service rendered by the school attendance officer as an employee of the department.

(c) In order for a school attendance officer to be awarded credit for personal leave and major medical leave or to retain the actual unused personal leave and major medical leave accumulated by him before July 1, 1998, the district attorney who employed the school attendance officer must certify, in writing, to the State Department of Education the hire date of the school attendance officer. For each school attendance officer employed by the youth or family court or a state agency before being designated an employee of the district attorney who has not had a break in continuous service, the hire date shall be the date that the school attendance officer was hired by the youth or family court or state agency. The department shall prescribe the date by which the certification must be received by the department and shall provide written notice to all district attorneys of the certification requirement and the date by which the certification must be received.

(8)(a) School attendance officers shall maintain regular office hours on a year-round basis; however, during the school term, on those days that teachers in all of the school districts served by a school attendance officer are not required to report to work, the school attendance officer also shall not be required to report to work. (For purposes of this subsection, a school district's school term is that period of time identified as the school term in contracts entered into by the district with licensed personnel.) A school attendance officer shall be required to report to work on any day recognized as an official state holiday if teachers in any school district served by that school attendance officer are required to report to work on that day, regardless of the school attendance officer's status as an employee of the State Department of Education, and compensatory leave may not be awarded to the school attendance officer for working during that day. However, a school attendance officer may be allowed by the school attendance officer's supervisor to use earned leave on such days.

(b) The State Department of Education annually shall designate a period of six (6) consecutive weeks in the summer between school years during which school attendance officers shall not be required to report to

work. A school attendance officer who elects to work at any time during that period may not be awarded compensatory leave for such work and may not opt to be absent from work at any time other than during the six (6) weeks designated by the department unless the school attendance officer uses personal leave or major medical leave accrued under Section 25-3-93 or 25-3-95 for such absence.

(9) The State Department of Education shall provide all continuing education and training courses that school attendance officers are required to complete under state law or rules and regulations of the department.

HISTORY: Laws, 1998, ch. 566, § 5; Laws, 1999, ch. 529, § 1; reenacted and amended, Laws, 2002, ch. 576, § 1; reenacted without change, Laws, 2002, ch. 610, § 5; reenacted without change, Laws, 2004, ch. 552, § 5; reenacted without change, Laws, 2009, ch. 345, § 19; Laws, 2014, ch. 491, § 8, eff from and after passage (approved April 15, 2014); Laws, 2020, ch. 315, § 1, eff from and after passage (approved June 22, 2020).

Amendment Notes — The 2020 amendment, effective June 22, 2020, in (6)(a), substituted "$24,528.39" for "$19,650.00," "26,485.29" for "21,550.00," "28,050.89" for "23,070.00," "29,616.49" for "24,590.00," and "31,182.09" for "26,110.00"; in (6)(b), substituted "$25,558.29" for "$20,650.00," "27,927.29" for "22,950.00," "29,822.49" for "24,790.00," "31,717.69" for "26,630.00," "33,612.89" for "28,470.00," and "35,415.39" for "30,310.00"; and in (6)(c), substituted "$26,382.29" for "$21,450.00," "29,008.79" for "24,000.00," "31,109.99" for "26,040.00," "33,211.19" for "28,080.00," "35,312.39" for "30,120.00," and "37,413.59" for "32,160.00."

CHAPTER 17.

ACCREDITATION OF SCHOOLS

Sec.
37-17-13. Abolition of school districts declared to be in state of emergency; powers of board of education with regard to such school districts; reconstitution, etc., of districts; alternative procedures for appointment of new local school board for district [Subsection 4 repealed effective July 1, 2023].

§ 37-17-13. Abolition of school districts declared to be in state of emergency; powers of board of education with regard to such school districts; reconstitution, etc., of districts; alternative procedures for appointment of new local school board for district [Subsection 4 repealed effective July 1, 2023].

(1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(12)(b), the State Board of Education, in addition to any actions taken under Section 37-17-6, may abolish the school district and assume control and administration

of the schools formerly constituting the district, and appoint an interim superintendent to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq. and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district in accordance with the procedures set forth in Section 37-17-6(15) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected after a period of maintaining a "C" accountability rating for five (5) consecutive years, unless the State Board of Education determines that the district is eligible to return to local control in less than the five-year period, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members in the manner provided by law. In the event the applicable statute provides that vacancies in an all-elected membership of the school board will be filled by appointment by the remaining members of the school board and no members of the school board remain in office, the Governor shall call a special election to fill the vacancies. In such situations, the Governor will set the date of the special election and the election will be conducted by the county election commission. The State Board of Education shall also request the governing authority or authorities to provide for the appointment of a superintendent or superintendents to govern the reconstituted, reorganized or changed district or districts, which such appointed position shall apply in all school districts including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time the Governor declares a state of emergency in a school district to be

abolished shall not be eligible to serve in that office for the school district reconstituted, reorganized or changed after the Governor declares that an emergency no longer exists.

(4) As an alternative to the procedure set forth in subsection (3), in the event a local school board is abolished by the State Board of Education pursuant to this section, after the State Board of Education determines that the impairments are being substantially corrected and the responsibility of the district transformation in such district upon the conclusion of the final scholastic year in which a district has maintained a "C" accountability rating for five (5) consecutive years, unless the State Board of Education determines that the district is eligible to return to local control in less than the five-year period, the State Board of Education may appoint a new five-member board for the administration of the school district and shall notify the local county board of supervisors and/or municipal governing authority of such appointment, spreading the names of the new school board members on its minutes. The new local school board members shall be residents of the school district. The new local school board members appointed by the State Board of Education may serve in an advisory capacity to the interim superintendent for its first year of service and thereafter shall have full responsibility to administer the school district. Thirty (30) days prior to the end of the first year of office as an advisory board, each member shall draw lots to determine when the members shall rotate off the board as follows: one (1) member shall serve a one-year term of office; one (1) member shall serve a two-year term of office; one (1) member shall serve a three-year term of office; one (1) member shall serve a four-year term of office; and one (1) member shall serve a five-year term of office. At that time, the State Board of Education shall notify the appropriate board of supervisors or municipal governing authority of this action and request them to provide for the election or appointment of school board members at the end of the terms of office in the manner provided by law, in order for the local residents of the school district to select a new school board on a phased-in basis. In such situations, the Governor will set the date of any necessary special election which shall be conducted by the county election commission. The State Board of Education shall also request the new school board to provide for the appointment of a superintendent to govern the reconstituted or reorganized school district, including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time the Governor declares a state of emergency in a school district shall not be eligible to serve in the office of school board member or superintendent for the school district reconstituted or reorganized following the district transformation period.

This subsection (4) shall stand repealed from and after July 1, 2023.

HISTORY: Laws, 1996, ch. 302, § 2; Laws, 1999, ch. 421, § 4; Laws, 2007, ch. 518, § 2; Laws, 2012, ch. 525, § 2; Laws, 2013, ch. 331, § 1; Laws, 2013, ch. 363, § 1; Laws, 2015, ch. 485, § 1; Laws, 2017, ch. 439, § 2, eff from and after July 1, 2017; Laws, 2020, ch. 340, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment extended the date of the repealer for (4) by substituting "July 1, 2023" for "July 1, 2020" in the last paragraph.

CHAPTER 28.

MISSISSIPPI CHARTER SCHOOLS ACT OF 2013

§ 37-28-63. Repealed.

Repealed by Laws, 2016, ch. 420, § 11, effective July 1, 2016. § 37-28-63. [Laws, 2013, ch. 497, § 93, eff from and after July 1, 2013.]

Editor's Notes — This section is set out above to correct an error in the repealing act information as it appeared in the 2019 Replacement Volume 10.